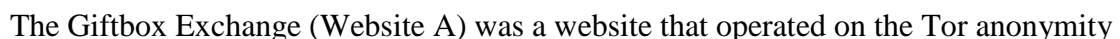


UNITED STATES OF AMERICA)
)
v.) Case No: 3:17-cr-00044
) Chief Judge Crenshaw
PATRICK DANE FALTE,)

It must be pre-teen and it must be any material where the child is performing a sexual act. –Crazymonk

I. The Enterprise

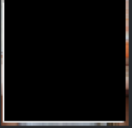


network from July 2015 until it was shut down by law enforcement in November 2016. Because Giftbox was hosted on Tor, the Internet Protocol (IP) address of the website itself—as well as the IP addresses of its members—was masked, such that law enforcement could not use that information to identify the server hosting the website.

Giftbox was dedicated to the sexual exploitation of children. To become a member, a user had to make an application post depicting the sexual abuse of a pre-teen child:

The screenshot shows a forum interface with a dark background. At the top, there's a header bar with 'Rules and guidelines' on the left and 'Thread Modes' on the right. Below the header, the user 'crazymonk' is identified as an 'Administrator' with a profile picture placeholder and a five-star rating. To the right of the user info, statistics are listed: Posts: 1,260, Threads: 107, Joined: Jul 2015, Reputation: 309, Thanks Given: 19, and Thanks Received: 47. The post itself is dated '07-11-2015, 11:40 PM' and is marked as '#1'. The title 'Rules and guidelines' is underlined. The text of the post reads: 'I hate writing rules and guidelines - I mean really really hate it. In fact, just writing this sentence makes me want to chew on some glass - and swallow it; and there are better things I could be swallowing in this world - like chocolate. What did you think I was going to say? Anyway, there are a few rules and guidelines and other stuff you need to follow in order to become a member and maintain that membership:'. Below this, a section titled 'Becoming a member:' is followed by a bulleted list of requirements: 'To become a member you will need to create a membership post (a post where you upload content to keep an active membership) in the "Applications" thread', 'This post must be greater than 20MB in size (before achieving)', 'You can upload either pictures or videos, but, it must be pre-teen and it must be any material where the child is performing a sexual act', and 'The application must meet the posting standards as defined below'.

Rules and guidelines **Thread Modes**

 **crazymonk** •
Administrator
★★★★★

Posts: 1,260
Threads: 107
Joined: Jul 2015
Reputation: 309
Thanks Given: 19
Thanks Received: 47

07-11-2015, 11:40 PM (This post was last modified: 12-19-2015, 11:32 AM by Darkly.) #1

Rules and guidelines

I hate writing rules and guidelines - I mean really really hate it. In fact, just writing this sentence makes me want to chew on some glass - and swallow it; and there are better things I could be swallowing in this world - like chocolate. What did you think I was going to say? Anyway, there are a few rules and guidelines and other stuff you need to follow in order to become a member and maintain that membership:

Becoming a member:

- To become a member you will need to create a membership post (a post where you upload content to keep an active membership) in the "Applications" thread
- This post must be greater than 20MB in size (before achieving)
- You can upload either pictures or videos, but, it must be pre-teen and it must be any material where the child is performing a sexual act
- The application must meet the posting standards as defined below

The application post had to be posted in the “Applications” thread. The posting standards were specific and required users to include a preview image in their post, to use approved image uploaders to host the files, and to encrypt the images or videos with a password. Giftbox had several other threads that organized the content on the website:

General			W P A K
Site Information	81	"Recalling" unread PM's	
Information specific to the site	531	2 hours ago	
Sub Forums: Links, File Hosts		by crazymonk	
Technology & Security	118	combining multiple file p...	
Technology Security, tricks, and how-tos	578	7 hours ago	
Sub Forums: How-to		by Liza	
Feedback	20	Sinbox Plugin?	
Anything you want us to know	77	9 hours ago	
Sub Forums: Ask Us Anything - Confidential		by targaryen	
Pedo Chat	229	Toy Box	
Whatever you want to talk about	1,767	3 hours ago	
Sub Forums: English, Deutsch, Español, and 3 more.		by Quickdraw	
Fun Stuff	65	Jazzy's Guides	
Jokes, Stories, Funny pictures, and Art	338	3 hours ago	
Sub Forums: Art / Hentai		by HornyPedo4Ass	
VIP			W P A K
Private zone Applications	-	Never	
Private zone	-		
VIP Applications	-	VIP Wish List	
Fast track applications	-	Yesterday, 05:05 AM	
Sub Forums: VIP Application Information		by Darkdy	

There were also specific forums and sub-forums for the different types of child pornography to be posted, including sections for pre-teen hardcore and babies and toddlers:

Girls

Model/Producer section

Section dedicated to running threads for specific models and producers

113

1,425

AMS Cherish Sets 221, 227...

1 hour ago

by Play

Pre-teen Hardcore

Ages 5 to 12

Sub Forums: Videos, Golden Oldies, Pictures

2,181

8,313

Gabi (9yo) sucks dad on w...

58 minutes ago

by Girlfriender

Pre-teen Softcore

Ages 5 to 12

Sub Forums: Non Nude, Videos, Pictures

914

2,468

welcome in joy's only gir...

3 hours ago

by TheUndead2

Teenagers

Budding breasts

Sub Forums: Photos, Videos

467

1,695

Alice & Silvia – 2 JB Gir...

9 hours ago

by lolzed

Cam

For webcams, Spycams & Selfshot videos

Sub Forums: Teenage Cams

1,035

3,110

youtube webcam

2 hours ago

by jakers

Fetishes

Little girls and fetishes

146

477

panty poop, scat, diaper ...

17 minutes ago

by whiteywood

Babies & Toddlers

Ages 0 to 4

304

1,339

MCCL-toddler HD [sc] [n]

32 minutes ago

by Wallypop

Requests

Come here to request girl material

Sub Forums: Subtitle Requests

396

1,259

Request for video named "

4 hours ago

by bdwpbdwpbdwp

Giftbox also had VIP and “producer only” zones that were accessible only to a select group of members—generally those who produced original child pornography content to be shared on Giftbox. The child pornography posted on Giftbox within these subforums included videos of babies and toddlers being tied up and sexually abused by adult men.

Giftbox was not just a place for people to trade child pornography. It was a place for people who wanted to sexually abuse children to network. For example, Falte met the father of the 4-year old girl he traveled to Virginia to sexually abuse on Giftbox and then also introduced Faulkner to that individual so he too could sexually abuse the child.

Giftbox had a technologically sophisticated security system to verify the identity of different members, called public key cryptography. The cryptographic system uses pairs of keys

(PGP keys)—one public and one private—to exchange information. The public key is distributed to others, while the private key is securely stored and known only to the account holder. This pair of keys accomplishes two functions: authentication, whereby the public key is used to verify that a holder of the paired private key sent the message; and encryption, whereby only the holder of the paired private key can decrypt the message encrypted with the public key.

Defendant Patrick Falte created Giftbox and went by the username “CrazyMonk” on the site. Falte was also an administrator of the site—he established and disseminated rules for membership. And Falte paid for the server hosting Giftbox using Bitcoin—an encrypted digital currency. Benjamin Faulkner joined Giftbox in September 2015 as “curiousvendetta” and also became an administrator of the site.

Giftbox grew over time into a vast, global criminal enterprise. In a post dated October 8, 2015, Falte discussed the site’s statistics as compared to another child pornography website called Magic Kingdom. He stated that Giftbox had 55,151 members with 1,536 of those being approved. He also noted that he had removed over 75,000 members that had registered in the past. He also bragged that Giftbox “clearly ha[d] more content” than the competitor board, and noted the thousands of threads posted on Giftbox. At the time Giftbox was shut down by law enforcement in November 2016, it had over 72,000 registered users and 56,000 posts.

While the Giftbox Exchange was the central focus of law enforcement’s investigation into the criminal enterprise, it was also part of a landscape of other Tor child pornography sites, many of which had overlapping membership. As noted by Falte in the same post on Giftbox discussing statistics, “after the downfall of . . . the other sites that have been seized or shutdown, . . . [w]e are separate sites, but we are still *a single community serving a common goal.*” (emphasis added). In April 2016, Faulkner—using the name “Warhead” started another website

called “Child’s Play,” also dedicated to the sexual exploitation of children. Members of these sites—including the defendants here—also used an encrypted chat messaging program to talk to each other about Giftbox and Child’s Play and the sexual abuse of children. Together, Falte and Faulkner oversaw the largest network of child exploitation websites on Tor.

Law enforcement has arrested at least 43 members of the Giftbox Exchange, in addition to the defendants charged here. This is only a small fraction of its vast membership—identifying members of the site is hugely challenging because they used the Tor network to mask their IP addresses. Even just within those 43 identified, there were at least ten registered sex offenders or individuals with a prior sex offense, and at least five whose jobs involved working with children. Many of the Giftbox members—at least 9 identified so far—had engaged in the hands-on sexual abuse of children.

II. The Factors to be Considered in Imposing a Sentence Under 18 U.S.C. § 3553(a)

A. The Nature of the Offense, § 3553(a)(1), The Seriousness of the Offense, Promoting Respect for the Law, and Providing Just Punishment, § 3553(a)(2)(A)

The defendant created and operated one of the largest child-pornography websites on the Dark Web. It catered to the worst child exploitation offenders, including those who enjoy the sexual exploitation of infants and toddlers and “producers” who actively sexually abuse kids. The disturbing nature of the content hosted on Giftbox cannot be overstated.

The defendant and his co-conspirators went to great lengths to hide their illegal activity and elude law enforcement, operating for nearly a year and a half on the Dark Web. They set up complex security mechanisms like the cryptography key system to verify they were talking to another member and not law enforcement. By using Tor to mask their IP addresses, they were able to hide their identities and avoid being caught.

Falte was effectively the kingpin—assisted by his right-hand man, Faulkner—of the Giftbox website. He created the site, a community that encouraged the sexual abuse of children. He paid for the site. He established the rules for gaining and maintaining membership. He enforced those rules and directed members how to comply.

This community perpetuated the sexual abuse of thousands of children, including babies and toddlers, whose images and videos were traded on Giftbox and other similar sites. A just sentence must reflect the vastness of that harm.

B. The Defendant’s History and Characteristics, § 3553(a)(1)

The defendant is young, smart, organized, and technologically skilled. He successfully managed a vast, global criminal enterprise for over a year. He has degrees in Information Technology, and admits to possessing advanced computer knowledge. PSR ¶ 107. He was raised in a stable home with married parents.

In addition to running a large child-pornography site, Falte raped a 3 to 4 year old girl multiple times, traveling to Virginia on three occasions for that purpose. He also engaged in particularly offensive efforts to first “groom” the child to make her more comfortable. During an October 2016 trip to Virginia, for example, Falte and Faulkner took the child out for pizza and ice cream, as well as bought her toys.

Falte claims to have been sexually abused by an adult male, though he never reported it until after being charged with federal crimes. “The victim-offender cycle in male sexual abuse has been popularized as an explanation of why some males sexually offend. However, there are serious limitations to this explanation.”¹ Both common sense and scientific research undercut

¹ Lambie, Ian, et al., Resiliency in the victim-offender cycle in male sexual abuse, *Sex Abuse: A Journal of Research and Treatment* 14(1), 43 (2002); *see also* Glasser, M. et al., Cycle of child sexual abuse: links between being a victim and becoming a perpetrator, *The British Journal of Psychiatry* 179, 488 (2001) (noting that “the data do not provide strong support for a cycle of sexual substantial proportion of

such post-hoc rationalizations. It does not require a Ph.D. to conclude that a person who experiences a traumatic event is more likely to empathize with another person who is going through similar trauma. The research on empathy supports this common sense analysis.

“Theoretically, the closer that one’s own personal victimization experience matches a victim’s condition (i.e., relationship context), the more one should identify with that situation.”² Indeed, “those who have experienced some type of sexual victimization report more empathy than those without such experience.”³

In a study published in 2016, researchers conducted qualitative research on male victims of sexual abuse, inquiring why they had not perpetuated the abuse on others. “By far, the most commonly cited reason the participants gave for having not sexually offended was experiencing empathy for other people and having no desire to hurt others.”⁴ When asked to explain, participants in the study made statements such as, “Experiencing pain is like putting your hand in the fire. You don’t have to tell anyone twice that they are experiencing pain. I wouldn’t want to stick someone else’s hand in the fire. . . I’m aware of the pain and emotions that an abused person would go through and I don’t want to put anyone else through that.”⁵ The study’s authors observed that “[s]uch evidence is unique as it directly contradicts the victim–offender cycle

male perpetrators”); and Briggs, F. and R. Hawkins, A Comparison of the Childhood Experiences of Convicted Male Child Molesters and Men who were Sexually Abused in Childhood and Claimed to be Nonoffenders, *Child Abuse & Neglect* 20(3), 230 (1996) (concluding that “[S]exual abuse at particular ages and frequency of abuse do not of themselves necessarily lead to an increased likelihood of perpetuating abuse across generations.”).

² Osman SL. (2014). Participant Sexual Victimization by an Acquaintance and Gender Predicting Empathy with an Acquaintance or Stranger Rape Victim. *Journal of Social and Clinical Psychology*, Vol. 33, No. 8, 2014, pp. 732-742.

³ Osman SL. (2011). Predicting rape empathy based on victim, perpetrator, and participant gender, and history of sexual aggression. *Sex Roles* 64, 506–515.

⁴ *Id.*

⁵ *Id.*

hypothesis because it demonstrates that not all victims become offenders and, in fact, the victimizing experience contributed to their status as a nonoffender.”⁶ In other words, instead of making them *more* likely to offend against a child, being a victim of sexual abuse actually makes them *less* likely to offend because the natural empathy developed from such experiences deters such perpetuating behavior. “This, coupled with the knowledge that the majority of victims do not become sexual offenders (Salter et al., 2003), adds substantially to the argument that the pathway from victim to offender is not as direct as the literature would have us believe.”⁷ And studies have shown that “not all victims of childhood sexual abuse go on to sexually abuse others (Jespersen et al., 2009; Thomas & Fremouw, 2009; Widom & Ames, 1994). In fact, the majority of victims do not go on to perpetuate the abuse (Salter et al., 2003).”⁸ “Furthermore, not all sexual offenders have a history of sexual abuse (Jespersen et al., 2009). Thus, ‘sexual abuse history is neither a sufficient nor a necessary condition for adult sexual offending’ (Jespersen et al., 2009, p. 190).”⁹

With respect to studies which have suggested that “prior victimization may have some effect in a minority of perpetrators . . . [a]nother possibility is that some sexual perpetrators may feign sexual victimization in order to gain sympathy, preferential treatment, or therapy.”¹⁰

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ Glasser, M. et al., *Cycle of child sexual abuse: links between being a victim and becoming a perpetrator*, The British Journal of Psychiatry 179, 488 (2001). See also Hall, R.C.W., *A Profile of Pedophilia: Characteristics of Offenders, Recidivism, Treatment Outcomes, and Forensic Issues*, Mayo Clinic Proceedings 82(4), 464 (2007) (“There is also legitimate concern regarding the validity of many of the self-reports of pedophiles who claim to have been abused as children themselves. These statements are often made in a legal or group treatment setting, in which pedophiles may be trying to mitigate their sentence or gain sympathy for their behavior.”); Haywood, Thomas et al., *Cycle of Abuse and Psychopathology in Cleric and Noncleric Molesters of Children and Adolescents*, Child Abuse & Neglect 20(12) 1234, (1996) (“Studies into prevalence of childhood sexual abuse among sex offenders have

Indeed, “when verified by polygraph . . . the percentage of offenders who experienced sexual victimization in their own lives drops significantly.”¹¹

On balance, the history and characteristics of Falte make clear that he has lived a stable life with family support, and had adequate education and financial resources to live a law-abiding life. He was not corralled into this crime by a series of unfortunate life circumstances. Rather, he chose his path. And embraced it fully.

C. Deterrence, § 3553(a)(2)(B), and Protecting the Public, § 3553(a)(2)(C)

Both specific and general deterrence call for significant sentences above the mandatory minimum to send a message that engaging in a criminal enterprise that targets children and causes extensive harm—beyond what an individual could accomplish—will result in a federal prison term that takes one far into old age, if not an effective life sentence. Regarding specific deterrence, the defendant presents a clear and significant risk to children and must be deterred from ever again sexually abusing a child or being part of community that promotes the sexual abuse of children. This is not a case where a defendant has simply downloaded child pornography and it is an abstract risk that he may abuse a child—the defendant has already sexually abused a toddler multiple times. He has committed multiple child-pornography and

produced mixed results with 8% to 60% of child molesters reporting having been sexually abused as a child. Variability in prevalence rates across studies may be due in part to differing motivations on the part of subjects to give self-serving histories. . .”) (citations omitted); and Briggs, F. and R. Hawkins, *A Comparison of the Childhood Experiences of Convicted Male Child Molesters and Men who were Sexually Abused in Childhood and Claimed to be Nonoffenders*, Child Abuse & Neglect 20(3), 232 (1996) (“Perpetrators may lie about their actions or attempt to excuse their behavior by pointing to their own victimization as children. . . Excuse-making may be more prevalent in settings where such behavior may be useful, such as in the early stages of therapy (before learning that excuse-making is not acceptable) or during the trial process (perhaps under the guidance of enthusiastic defense lawyers).”).

¹¹ Hindman, Jan et al., *Shedding Light on the Histories of Sex Offenders Using Clinical Polygraphy*, The Sexual Predator (vol. IV), 20-5 (2010); see also Hindman, Jan et al., *Polygraph Testing Leads to Better Understanding Adult and Juvenile Sex Offenders*, Federal Probation 65(3), 8 (2001).

hands-on offenses, making him more likely to recidivate.¹² Given the defendant's proclivities and the extensive, repeated nature of his offenses against children, only a long prison sentence will be sufficient to deter him from harming another child.¹³ The Court should also impose a lifetime of supervised release—as recommended in the Presentence Report—in the event that the defendant is ever released from prison so that his access to the internet and to children will be monitored.

The Court must also issue a sentence that will serve as a general deterrent to others involved in the sexual exploitation on the Dark Web. *See United States v. Bistline*, 665 F.3d 758, 767 (6th Cir. 2012) (“general deterrence is crucial in the child pornography context.” (citing *United States v. Camiscione*, 591 F.3d 823, 834 (6th Cir. 2010))). As is evident from the statistics on Giftbox alone, there are thousands of individuals engaging in this activity. Groups such as these are only becoming more common and the interest in egregious abuse of younger and younger children becoming more pronounced. Thus, the message must be sent loudly and clearly to deter others—you cannot escape punishment by hiding on the Dark Web.

D. Sentencing Guidelines Range, § 3553(a)(4)

The Presentence Report calculates the defendant's Sentencing Guidelines range to be life. The government agrees with the calculation of the guidelines, except for the one objection noted in the government's position regarding presentence report. That the defendant's guidelines range

¹² United States Sentencing Commission, Report to Congress: Federal Child Pornography Offenses (Dec. 2012), at 170 (“A pedophilic sex offender who has committed both a child –pornography offense and a hands-on sex crime is more likely to commit a future crime, including another hands-on offense, than a defendant who has committed only a child-pornography offense.” (citing *United States v. Garthus*, 652 F.3d 715, 720 (7th Cir. 2011) (Posner, J.))), available at <https://www.ussc.gov/research/congressional-reports/2012-report-congress-federal-child-pornography-offenses>.

¹³ The government notes that the defendant has already received a life sentence in the District Court for the Eastern District of Virginia.

is at life even with decreases for acceptance of responsibility is reflective of the seriousness of the offense and the significant harm to children caused by a child-exploitation enterprise. The Court must consider this guideline range in determining a sentence. 18 U.S.C. § 3553(a)(4); *United States v. Bistline*, 665 F.3d 758, 764 (6th Cir. 2012) (rejecting the district court's conclusion that the § 2G2.2 was "seriously flawed" because Congress exercised, rather than delegated to the Sentencing Commission, its power to set policies, and finding instead that the guidelines range was the proper starting point for [defendant]'s sentence). And the defendant's offense is so far beyond the simple downloading of child pornography that the concerns often raised about the child-pornography guidelines are not present here. By running the Giftbox Exchange, the defendant facilitated an extensive network of both trading in child pornography and sexually abusing children, and the guidelines range appropriately reflects that.

E. Avoiding Unwarranted Sentencing Disparity, § 3553(a)(6)

The defendant's offense does not fall within the heartland of standard child-pornography cases. Charges under the child-exploitation-enterprise statute are relatively rare, and the government is not aware of any such cases in the Middle District of Tennessee. However, administrators of Tor sites similar to the Giftbox Exchange have been convicted and sentenced in other districts. This includes Jason Gmoser, who was sentenced in the Central District of Illinois to life in prison after being convicted of engaging in a child exploitation enterprise. *United States v. Jason T. Gmoser*, Crim. No. 14-cr-20048 (C.D. Ill. July 15, 2016). Gmoser's conduct was remarkably similar to Falte's—he operated a members-only Tor site dedicated to child pornography which had nearly 30,000 members. Brian Musomba Maweu and John Wyss, members of a similar child pornography website also received life sentences for engaging in a child exploitation enterprise. *United States v. Doe #1 et al*, Crim. No. 5:10-cr-319 (W.D. La

2010). Stephen Chase, who was the administrator of the Tor website Playpen, was sentenced to 30 years imprisonment after being convicted of engaging in a child exploitation enterprise.

United States v. Chase et al, Crim No. 5:18-cr-15 (W.D.N.C. May 1, 2017). A sentence of 40 years is within this range and would not result in unwarranted sentencing disparities.

III. Government's Sentencing Recommendation

The government recommend that the Court sentence the defendant to a below-guidelines sentence of a minimum of 40 years in prison to be served concurrently to the defendant's life sentence imposed in the Eastern District of Virginia, and to be followed by a lifetime of supervised release. A sentence of at least 40 years is sufficient but not greater than necessary to comply with the goals enumerated in 18 U.S.C. §3553(a).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have electronically filed the above styled pleading with the clerk of the court on July 26, 2019, by using the CM/ECF system, which will send a Notice of Electronic Filing to all counsel of record.

s/ Lauren E. Britsch
LAUREN E. BRITSCH